

**MINUTES OF THE**  
**CITY OF SANTA FE**  
**PUBLIC UTILITIES COMMITTEE**  
**WATER DEMAND ADVISORY SUBCOMMITTEE**

**Santa Fe, New Mexico**

**February 11, 2003**

A special meeting of the City of Santa Fe Public Utilities Water Demand Advisory Subcommittee was called to order on this date at approximately 5:15 p.m. in City Hall Council Chambers.

**Subcommittee Members Present:**

Councilor Matthew E. Ortiz, Chair  
Councilor Karen Heldmeyer  
Councilor Rebecca Wurzburger

**Members Excused:**

None.

**Staff Present:**

Mr. Jim Romero, City Manager  
Mr. Kyle Harwood, City Attorney's Office  
Mr. Reed Liming, City Planning Division

**PUBLIC HEARING**

Chairman Ortiz stated that a resolution was adopted during the summer 2002 water budget process that created this subcommittee, which has been charged with making determinations, and then developing recommendations, concerning the City's potential obligation to existing customers and potential customers.

Chairman Ortiz said this public hearing has been scheduled to take testimony, after which the subcommittee will finalize the numbers the City has been tabulating for the past six months, then will report the numbers to the City Council along with any recommendations in terms of policy changes that may need to take place.

Note: In the process of this hearing, several speakers turned in documentation to the City Manager.

**Karl Sommer, duly sworn**

Mr. Sommer stated that he represented Summit Properties, owned by Ralph Brutsche, who is the proprietor of various other entities that have agreements with the

City of Santa Fe by virtue of its acquisition of the water company. He said Mr. Brutsche holds a contract from 1990 that provides him the right to water service for having built a water system that included a 500,000-gallon tank, pump station and a transmission line to serve the Northeast Quadrant of the city.

Mr. Sommer said the City has recognized the contract as valid, and he would be responding to the letter with documentary evidence. He noted that the documentary evidence includes the contract and subsequent line extension contracts that include advance payment for all of the meters in the developments owned by Mr. Brutsche.

Mr. Sommer said he also had a letter from the City Attorney acknowledging the City's "duty to serve developments in the Northeast Quadrant where Mr. Brutsche is the owner or developer." [Letter submitted to the City Manager.]

Mr. Sommer also stated that Mr. Brutsche was willing to work with the City on figuring out how to time particular developments and limiting the number of meters that could be set in a particular year. He said this would accommodate the City's need to provide adequate water throughout the city. He commented that he thought other developers would be willing to do this, too, provided it was reasonable and equitable.

#### Donald Tischman, duly sworn

Mr. Tischman, developer of Zocalo, stated that, when this land was purchased from Security Capital, there was an approved development plan and letter from the water company saying that there was sufficient water for 450 units. He stated that the development was subsequently downscaled to about 325 units, and he went to the City showing them the letter from the water company.

Mr. Tischman said, "We were told that, although we had this letter, and we had to bring the water underneath St. Francis, they said they didn't have the water to provide. They subsequently gave us an agreement, a letter, which said that they had water for the first 175 units of the 325 unit development, and that if we would participate in paying a portion of the \$5 million cost of the extension of a northern water line, we could have the water for the balance of the units. We subsequently entered into an agreement and paid our portion of this \$5 million, and we think that the City has an obligation to provide us the water for these 325 units.

"Subsequent to our agreement, we spent several million dollars in putting in utilities based on the assurances of the City that we were going to get the 325 water taps. We have not submitted anything yet. We didn't receive a letter, but we will submit it."

#### Jerry Powers, duly sworn

Mr. Powers, representing Country Club Apartments, a 62-unit complex on Airport Road, stated that the apartments were built in 1962 and were in a sad state when he acquired them in November 2002.

Mr. Powers said, "The only way we could see the get financing to do a renovation was through HUD financing, and that involved a tax credit subsidy, which is extremely

hard to get. We first got our water availability letter from the City in 2001, and spent about the next 18 months going through the exhaustive HUD process to obtain the financing. One of the stipulations from HUD was that the loan would be contingent on obtaining city service. The apartment complex is currently on two individual wells whose water rights are expiring.”

Mr. Powers said tax credit restrictions require that the apartments be rent-restricted for the next 40 years, the term of the loan. He stated that the apartments provide low-income housing.

Mr. Powers said the project is about 30% complete, and without the water availability statement from the City, HUD would no doubt want to call the loan.

Wynona Nava, duly sworn

Ms. Nava, president of Guadalupe Credit Union, said the credit union is in the process of constructing a two-story office building off of Rodeo Road at a cost of \$1.8 million. She stated that a building permit has been issued.

Ms. Nava said this project is contingent upon water availability from the City, as was provided as part of the master plan process. She stated that a well exists on the property but is not part of this project.

Jim Siebert, duly sworn

Mr. Siebert, planning consultant, stated that he represented about 20-25 people who have received letters of water availability and who range from people that have commitments approved by the Governing Body to landowners that have water availability statements.

Mr. Siebert said he assumed the purpose of this subcommittee was to enact some of the administrative procedures in Resolution 2002-55. He observed that one requirement is that, not later than January 10 of each year, the City Manager shall prepare a draft of an annual water budget. He said he assumed that was available for public review.

Mr. Siebert stated that one of the key components in the resolution refers to

total water obligated to be delivered from the water system pursuant to  
legally enforceable obligations of the City.

Mr. Siebert said, “I think a lot of my clients would like to know where they stand in terms of the legal obligation on the part of the City and when they can expect to have an answer to that subsection of the resolution.”

William Herrera, duly sworn

Dr. Herrera, general partner for Herrera Associates, said his group owned 70 acres within the Tierra Contenta subdivision. He said the land in question fronts on Cerrillos Road.

Dr. Herrera stated that the Tierra Contenta annexation agreement prevented his group of landowners from “performing on a particular contract a while back because the City did not have the sewer, and the waterline was not immediately available. We were annexed in 1985. We were part of the Bellamah development. We were then part of the restated annexation agreement in 1994. The City was to build a sewerline within three years, but it got done in about five. So we were stymied on development with Public Trust of America.”

Dr. Herrera said the City completed the sewerline in 1999, so now his group was trying to move forward on the property. He stated, “If you read the annexation agreement, the water section is very specific. It was a section that was actually put together by the City, which redid the annexation agreement because the conditions they had on Bellamah were different from what they have with the City. So when the City did it, they emphasized that we were supposed to be part of the infrastructure. We’re part of the whole infrastructure of Tierra Contenta. If Cerrillos Road does not provide access to Tierra Contenta, James Hicks of Tierra Contenta Corporation tells me that they won’t be able to have the fire protection and traffic movements that are required to develop Phase Three.

“So we feel that our property should have a high priority, not only because of the need for developing the ongoing affordable housing, but the annexation agreement itself states that, in exchange for receiving water service, no wells shall be drilled on any property owned by the PRC owners or adjoining owners after the effective date of this agreement.”

Dr. Herrera stated that he and Dr. Hernandez are adjoining owners. Dr. Herrera said he was responsible for developing Herrera Road to his property, and he and Dr. Hernandez were partially responsible for participating in the development of Ocate Road.

Dr. Herrera also noted that the agreement said “we have a degree of protection for tying in the city water.” He said he was required to build a 12” line in Herrera Road, which would provide Phase Three of Tierra Contenta with water and fire protection as well as utility vehicle access and better traffic flow. He stated that the construction of Herrera Road and Ocate Road would create a smoother traffic flow.

Dr. Herrera stated that he planned to build “quite a few” affordable units, although he did not exactly how many. He said retail uses planned for the property would serve Tierra Contenta as well as outlying areas such as the Community College area, La Cienega/La Cieneguilla and other areas.

Chairman Ortiz asked Dr. Herrera if he and his partners contributed to the construction of either the water line or the sewerline in this area.

Dr. Herrera responded that they have been trying to work out the sewerline with the City, so planned to contribute according to a formula built into the agreement. He stated that they were supposed to tie into the water line to the Premium Outlets, and through

the end of this year would have to pay at least half the cost of the line that fronts their property “and also any, what do you call those stations? — I don’t remember the exact terminology.”

Clif Walbridge, duly sworn

Mr. Walbridge stated that he represented two projects:

1) Monte Sereno, annexed under a development agreement in 1993 pursuant to a settlement with the City. Monte Sereno has been contributing most of the money for the Northwest Quadrant water system, having built the first phase, and they are continuing to build water lines in conjunction with the US 84/285 improvements.

2) Santa Fe Estates, which had a master plan approved in 1996. Santa Fe Estates is under contract to contribute substantial funds to the Northwest Quadrant water system.

Al Lilly, duly sworn

Mr. Lilly, Santa Fe Planning Group, said he represented the San Mateo/Galisteo project, which just received preliminary development plan approval from the City Council last month. He said four landowners are involved: Barker, Borrego, Parker and Brown. He said the land plan has evolved over the last ten years, and is a mixed use development involving moderately priced and affordable housing on 21 acres of infill. He stated that he hoped the subcommittee would consider extending water to it.

Tom Thornburg, duly sworn

Mr. Thornburg, of Thornburg Enterprises, read the following statement: “Thornburg Enterprises is in a unique position regarding water services from the City. Thornburg and Sangre de Cristo Water Company are parties in Public Utility Commission cases 2428 and 2588. These cases resulted in Commission orders issued in 1994 and 1995. As a result of these orders, Sangre de Cristo and the City, as successor to Sangre de Cristo, was required to provide water service to Thornburg’s land in the area of State Road 14. Also in these cases, the City, Sangre de Cristo and Thornburg entered into a stipulation dated January 1, 1995 and a memorandum of understanding dated October 26, 1994. In reliance on orders and the stipulation of the memorandum of understanding, Thornburg has spent approximately \$500,000 in construction of waterline infrastructure and installation of master water meters for the purpose of transporting City water from the City’s system to Turquoise Trail Industrial Park, and installation of master meters for the purpose of transporting City water to its additional properties. City water service to Turquoise Trail Industrial Park began in 1996 and continues to this day.

“In September 2001, Thornburg made demand on the City for additional water services as required by the orders, the stipulation and the memorandum of understanding so that we could begin construction of additional water utility infrastructure to provide water service to its additional properties. In October 2001, Thornburg sought master plan approval for development of its properties from the Board of County Commissioners, representing to the County that the water service was available for the development from the City in reliance on orders, the stipulation and the memorandum of understanding. On September 10, 2002, Thornburg received master plan approval from the Board of County Commissioners for the development of its additional properties. The approval requires the use of City water in its development.

“Thornburg is willing to work with the City in developing reasonable requirements for water service, and Thornburg has taken all steps necessary, including expenditure of over \$500,000 to comply with its own obligations under the orders, the stipulation and the memorandum of understanding; however, the City does not appear to take the position that it is bound by its former agreements in the order of the Public Utility Commission. Thornburg has asked the City to agree to honor the terms of the stipulation, the memorandum of understanding and the orders, and provide water service to Thornburg under reasonable conditions that do not violate the City’s promises contained in the stipulation and memorandum of understanding, and that do not violate the orders of the New Mexico Public Utility Commission.”

James Hicks, duly sworn

Mr. Hicks, executive director of Tierra Contenta, reminded the subcommittee that the annexation agreement called for Tierra Contenta to give up its water rights and its ability to drill wells in exchange for the City supplying water. He said it was extremely important for Tierra Contenta to be able to continue.

Mr. Hicks stated that Tierra Contenta has a seven-year history, and 1,234 families have settled there as of the end of 2002. He said several different phases are in various stages of approval. He stated that 54% of the residents in Tierra Contenta are in affordable housing units there.

Mr. Hicks said the City has a stake in Tierra Contenta because Tierra Contenta’s infrastructure is financed with bond issues that the City has subordinated. He stated that the City has a \$4 million stake in Tierra Contenta not to mention over \$2 million in bonds.

Joe Hernandez, duly sworn

Dr. Hernandez, general partner of the Hernandez Family, LP, said they are part of the Tierra Contenta annexation agreement.

Dr. Hernandez stated that Richard Gorman recently submitted information to the City Manager regarding Placita de Ocate. He said this is the same information that Dr. Herrera was referring to when he was discussing Entrada Contenta, which was his particular project.

Dr. Hernandez stated that these two projects are “companion projects” because he and Dr. Herrera are adjacent owners of a property that abuts Dr. Herrera’s property to the north. He said their site consists of 20 acres.

Dr. Hernandez said that, in light of the Tierra Contenta annexation agreement and the commitments made in the agreement by the parties involved, which includes the City, which calls for providing water to their site, “we respectfully request a high designation on your priority list.”

Michael Hurlocker, duly sworn

Mr. Hurlocker, developer of Tecera Subdivision, formerly known as College Hills, said he has purchased land and has pursued subdivision approvals, which constitute Tecera Subdivision, for the past three years. He said he did all of this in reliance upon representations made to him by the PUC, City Council, EZC and EZA.

Mr. Hurlocker said, “I am here tonight to state for the record that phase one of Tecera Subdivision has received a promise of City water and sewer service. This subdivision is in the EZ and has master plan approval and preliminary plat approval for phase one, consisting of 88 lots.”

Mr. Hurlocker read from the City Council minutes of October 24, 2001, describing the Council’s action on a request for approval of extension of water and sewerlines into College Hills to serve 88 residential units:

Councilor Lopez moved to honor the original agreement to provide water for 88 units. Councilor Chavez seconded the motion, and it passed.

Linda Tigges, duly sworn

Ms. Tigges, of Tigges Planning Consultants, said she was representing five projects:

1) Chamisa Heights Project, a small business park on St. Michael’s Drive, which has been in the process of getting approvals for two years. They were tabled, and are planning to come back with a revision, hoping to be heard by the Planning Commission in May 2003.

2) St. Michael’s Office Park. Rezoning for the project was approved by the City Council. They received final approval for phase one, and are in the process of coming in with buildings permits. They were responsible for improvements on Botulph Road and to the signal at Botulph and St. Francis, as well as traffic calming on Botulph.

3) Physicians Medical Center. That received development plan approval from the Planning Commission and approval by the Board of Adjustment, and they would very much like to go forward but are on appeal before the City Council at the current time.

4) Mision Viejo, which is in the EZ. It received approval in the mid 1990s for water for a residential subdivision and a private school. These approvals came from the EZA, BCC and Planning Commission. They did some revisions and went through the process again, and received approval. They are doing groundwork now. They were contributors to a sewerline, now in place, that went from Nava Adé to Carlos Rey del Sur, and removed an existing lift station. They have two affordable units. They have a contract with the City at the City Water Company.

Ms. Tigges stated that she had provided materials to Reed Liming on these four projects.

5) Plaza Entrada at Zia and St. Francis. They have an office building, the Cancer Institute, now under construction. They also have approval for additional square footage. They have been in the process for some time. They are taking on the responsibility of making improvements that should have been done to phase one, although they do not own phase one. These improvements are being made on site and off site.

Dolores Vigil, duly sworn

Ms. Vigil, Liaison Planning Services, said she represented a 28 live-work unit development called Agua Fria Art Space, located in the EZ. She said they received master plan approval on October 18, 2001, and recorded it in July 2002. She stated that they are currently applying for development plan approval.

Ms. Vigil asked the City to give high priority to the approval of water and sewer for this project.

Mike Gomez, duly sworn

Mr. Gomez, of Tierra Engineering, appeared on behalf of three projects:

1) Jaguar Village, which was recently annexed and zoned by the City Council late last year, and is located at the intersection of Jaguar and Lucia Lane behind Ortiz Middle School. It consists of 43 Type A affordable housing units. They are going through the post-development process of getting signatures and recordation of the plat. Several builders are interested in developing affordable housing on the property.

Mr. Gomez commented that affordable housing should be a top priority.

2) Arroyo Chamiso Plaza, located at Cerrillos Road/Governor Miles. This is a commercial project originally approved with a bank, restaurants and a convenience store. Tomorrow the proponents will meet with City Public Works staff to discuss the construction of Governor Miles Road. One of the conditions imposed on this development was that they dedicate ROW on Governor Miles at no charge and they also pay for the construction of Governor Miles within their property. The price tag is about \$250,000 for the construction, not including the value of the real estate. The property



has been graded and they have received a FEMA conditional letter of map revision for the development.

Mr. Gomez said, "We've put some serious efforts into the development of this property, and we feel that because of our commitments to the City in terms of right of way, roadways and other infrastructure, this project should be given some type of priority."

3) 1599 South St. Francis Drive, a small apartment project comprising 4,000 square feet of office. It has received development plan approval, and the development plan has been recorded. They are in the process of submitting to the City for a building permit.

Gordon Keig, duly sworn

Mr. Keig, senior real estate manager with Albertson's, Inc., 215 Park Center Boulevard, Boise, Idaho, stated that Albertson's owns an approximately eight-acre piece of property on Airport Road where it intersects Agua Fria. He said the development plan was approved in summer 2002 by the EZA.

Mr. Keig said they have a letter from the City committing for water service for the property.

Mr. Keig said he understood this grocery store would be the only store that would serve that area of the Southwest Sector. He commented, "We were specifically instructed, when the development plan was approved, by Councilor Carol Robertson Lopez that we needed to build as quickly as possible because there's a pent-up demand for retail services in that sector of the community."

Mr. Keig stated that he understood that the City's plan for this area, enacted last fall, puts an emphasis on prioritizing affordable housing. He noted that the subject area has a significant amount of affordable housing — so if there is existing pent-up demand as the affordable housing is built, that pent-up demand will only increase.

Mr. Keig said, "Albertson's has been a citizen of this community since 1974, and despite being told to build as quickly as possible, we would also be happy to discuss the timing of our project if that helps the City in an equitable way to serve the water needs for the whole community."

Mr. Keig noted that Albertson's worked with the City at one point to extend water services when it built its new store on Guadalupe and Paseo de Peralta. He said Albertson's extended a water line to serve the neighborhood behind that store.

Arch Sproul, duly sworn

Mr. Sproul, representing Kachina Ridge, an 82-unit development that just received preliminary plat approval from the Planning Commission, stated that Kachina Ridge is one of the first Type A developments to come before the City. He said 70% of the houses will be in the affordable range.

Mr. Sproul stated that more than 12,000 people in Santa Fe need affordable housing, and he hoped Kachina Ridge would be included in any future water allocations from the City.

Bill Chapman, duly sworn

Mr. Chapman, of Chapman Homes, said he was representing three developments:

1) Rufina Meadows II. When Rufina Meadows I was approved, the EZA instructed them to work with the neighbors, who were concerned about an arterial road that would be "forced onto their property." He said he received a letter from the City subsequent to that stating that they could have water but they would have to annex; however, unfortunately, they are not in the zone to annex because they don't abut any city property. This development will consist of 64 homes and 96 condos or apartments, all of which should fall into the A and B categories of affordable housing.

2) LSM Rodeo Office Complex. This has received final development plan approval for this complex, which is on Rodeo Road/Rodeo Lane, for 20,000 square feet of office space. The site has been graded and they are coming back to P & Z to make some minor adjustments on the development plan to reduce from two stories to one story. They plan to submit for building permit in the next 30 days.

3) Recovery of Alcoholics Program, which is in the EZ and is applying for ten apartment units to be used as halfway houses/transitional housing. They have a 3" water meter on the site, so there should be no problem. They may split the meter into two meters, but there obviously will be additional water used in the apartment units, which will house 20 people. They have applied to the New Mexico Finance Authority and should get about \$400,000 from them, and they have applied to the City for CDGB funding, and have also applied to the Federal Home Loan Bank Board.

Rosanna Vázquez, duly sworn

Ms. Vázquez said she was representing two projects:

1) Village Plaza, located within the EZ, a mixed-use project that has been approved by the EZC/EZA. It consists of some business park, a market plaza, some restaurant/retail shops, and residential homes. The plat has been recorded and the bond has been issued. Infrastructure improvements will begin in spring 2003. Some of these improvements will assist La Familia Medical Center and the County Fire Station being built there. The line will be extended to assist those developments as well. A water service availability statement was received from the City because the line to be extended will involve a City line for La Familia.

Ms. Vázquez also noted that this was one of the projects that were approved as part of the County TDR transfer program. She said it will send some TDRs and is keeping some and transferring them to another site on the project.

2) Springhill Suites. This hotel, on the corner of St. Francis Drive and St. Michael's Drive, received final development plan approval from the City in 2001. About \$100,000 has been spent on site preparation and extension of infrastructure.

Ted Berridge, duly sworn

Mr. Berridge, representing The Meadows Center, said this development is on the corner of South Meadows/Airport Road. He said a service station exists on the corner now. He said this project encompasses roughly seven acres, and there are three parcels, with the gas station being the first phase.

Mr. Berridge stated that this project was started in 1994; as it went through the process, he was instructed to wait for a 6 million gallon water tank to be installed, which it was. He said he was then instructed to wait for the stoplight to be installed, which it was. He stated that he subsequently spent \$490,000+ in public improvements, consisting of an 1,800 foot sewerline up South Meadows, and a four-lane improvement of South Meadows to the back of his property. He stated that he also had to extend all of the utility lines down South Meadows, e.g., electrical, gas, etc. Mr. Berridge said all of this was part of the development agreement with the City, which he has addressed.

Mr. Berridge stated that he has been working for the past two years on development of one of the other two vacant parcels. He said he and his planner, Jim Siebert, submitted letters in the beginning of 2002 seeking clarification on the status of the property in reference to water availability, and they have received recommendations from the Public Works Committee and Public Utilities Committee as well as approval from the City on utility service, but they have not received an answer to their letters regarding the remaining parcels so they could move forward.

Mr. Berridge said he thought he had earned a positive response to his letters given the expense and investment he has made in the community in that regard.

This concluded testimony.

Chairman Ortiz asked all speakers to submit any documentation to the City Manager or to subcommittee staff liaison Reed Liming.

Chairman Ortiz stated that the subcommittee will meet one more time before making a presentation to the City Council.

Chairman Ortiz said the subcommittee will continue to accept information until such time as it makes a recommendation to the City Council.

**ADJOURN**

Its business completed, the subcommittee adjourned the meeting at approximately 6:15 p.m.

Approved by:

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Councilor Matthew E. Ortiz, Chairman

Submitted by:

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Judith S. Beatty, Committee Reporter